

SUMMARY ANALYSIS OF AMENDED BILL

Author: Simitian Analyst: Deborah Barrett Bill Number: SB 364
 Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: January 28, 2008
 Attorney: Tommy Leung Sponsor: _____

SUBJECT: State Agencies Disclose Any Breach Of Security Of Data Systems That Contain Personal Information & Submit Any Notification Sent to Office of Privacy Protection

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED January 7, 2008 &

X January 17, 2008, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would require that when state agencies, persons, and businesses send a notice of a breach of security of a system containing personal information (notice) to California residents, that they also provide a sample of the notice to the Office of Privacy Protection (OPP).

SUMMARY OF AMENDMENTS

The January 28, 2008, amendments would make the following changes:

- Eliminate the requirements for OPP to establish a Web site that would provide public access to the notice sent to OPP by state agencies, persons, and businesses.
- Eliminate the requirement for OPP to provide an annual report to the Legislature.
- Clarify that a “sample” of the notice sent to California residents is required to be sent to OPP.

Board Position:

_____ S _____ NA _____ NP
 _____ SA _____ O _____ NAR
 _____ N _____ OUA X PENDING

Legislative Director

Date

Brian Putler

2/5/08

The January 28, 2008, amendments resolved the "Implementation Concerns" identified in the department's analysis of the bill as amended January 7, 2008, and January 17, 2008. The "This Bill" discussion has been revised. The remainder of the department's analysis of the bill as amended January 7, 2008, and January 17, 2008, still applies.

POSITION

Pending.

THIS BILL

This bill would require an agency that owns or licenses computerized data containing personal information as defined that experiences a breach of security of the system containing personal information to notify the affected individuals that their unencrypted information may have been or is reasonably believed to have been acquired by an unauthorized person. Notification of the breach of security can be provided by written notice, electronic notice, or substitute notice either if the cost of providing the notice would exceed \$250,000 or if the class of affected persons is in excess of 500,000 persons. Substitute notice can be accomplished by e-mail notification, posting of the notice in a conspicuous place on the agency's Web site, or notifying major statewide media.

In addition to notifying the affected person, agencies are required to provide OPP a sample of the notification of a breach of system security that is sent to California residents.

The notice is required to contain the following information:

- The toll-free telephone numbers and addresses of the major credit reporting agencies.
- The name and contact information of the reporting agency.
- A list of the types of information, such as name or social security number, that may have been subject of a breach.
- The date of a breach, if known and the date of discovery of a breach, if known.
- The date of the notification and whether the notification was delayed pursuant to law enforcement direction or other permissible delays.
- A general description of the breach incident.
- The estimated number of persons affected by the breach.
- Whether substitute notice was used.

IMPLEMENTATION CONCERNS

Implementing this bill would not significantly impact the department's operations or programs.

LEGISLATIVE STAFF CONTACT

Legislative Analyst
Deborah Barrett
(916) 845-4301
deborah.barrett@ftb.ca.gov

Revenue Manager
Rebecca Schlusser
(916) 845-5986
rebecca.schlusser@ftb.ca.gov

Legislative Director
Brian Putler
(916) 845-6333
brian.putler@ftb.ca.gov